

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed February 17, 2009. At the time of the Office Action, Claims 10-13 and 36-38 were pending in this Application, and Claims 1-9 and 14-35 were previously cancelled due to an election/restriction requirement. In the Office Action, the Examiner rejected Claims 10-13 and withdrew Claims 36-38 as allegedly being directed to non-elected inventions. Claim 10 is herein amended. Applicants respectfully request reconsideration and favorable action in this case.

Claims 10-13 are Allowable.

Claim 10 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,703,316 issued to Terry G. Sherbeck ("*Sherbeck*").

Claims 11-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,355,149 issued to Mark W. Casebolt ("*Casebolt*") in view of U.S. Patent 4,703,316 issued to Terry G. Sherbeck ("*Sherbeck*").

For prior art based rejections under either 35 U.S.C. §102 or 35 U.S.C. §103, the prior art reference(s) much teach every limitation of the claim at issue. Regarding rejections under 35 U.S.C. §102, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Similarly, regarding rejections under 35 U.S.C. §103, in order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Applicants respectfully submit that *Casebolt* and *Sherbeck*, alone or in combination, do not teach every element of Applicants' Claims 10-13 as amended, as discussed below.

Amended independent claim 10 recites, in part:

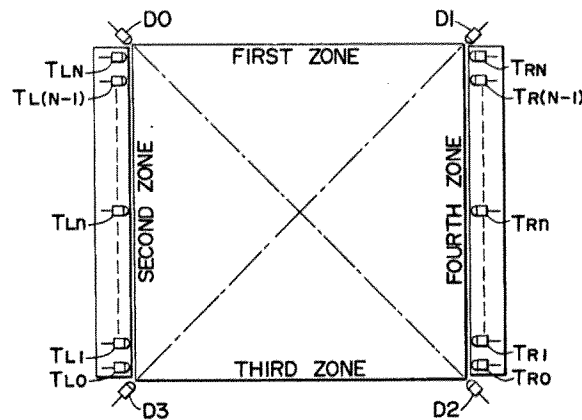
10. A method of determining the location of a touch event within a display area surrounded by a touch frame having a plurality of light emitting elements and a plurality of light receiving elements forming a plurality of triangular zones of light beam paths, each triangular zone being defined by the portion of the display area between (a) a light beam path extending from a light emitting element at one end of a row of light emitting elements to a single light receiving element and (b) a light beam path extending from a light emitting element at the other end of the row of light emitting elements to the single light receiving element, the number and positioning of receivers being sufficient to form partially overlapping zone pairs such that the touch event lies within at least two zone pairs
(emphasis added)

The Examiner argues that the text of Claim 10 allowed for an arbitrary definition of the term “triangular zones” broad enough to read on the teachings of *Sherbeck* (Office Action, pages 3-4). Specifically, the Examiner alleged that *Sherbeck* teaches a “triangular zone” having vertices defined by the single light receiving element (Fig. 1, item T_{RN}) and the plurality of light emitting elements (Fig. 1, items DO and D1). (Office Action, page 4).

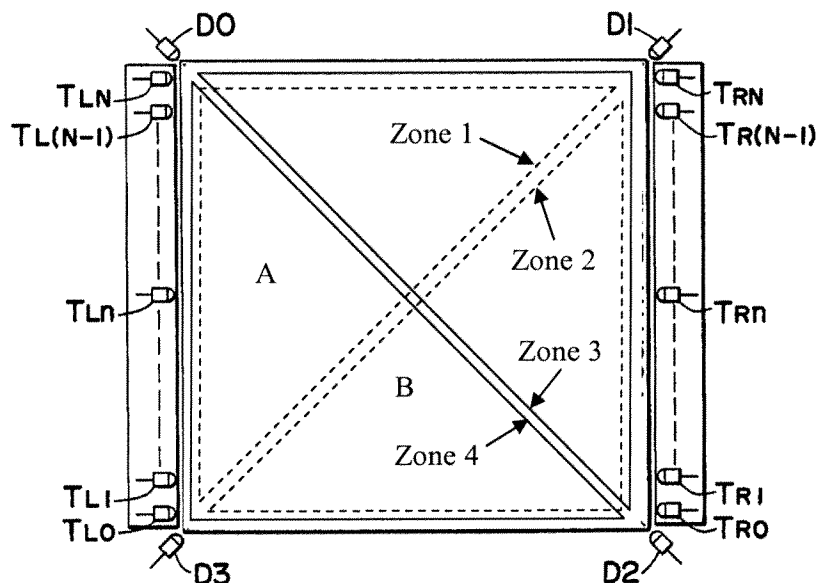
Although Applicants do not agree that one of ordinary skill in the art would interpret “triangular zones” recited in Claim 10 in such an arbitrary manner, Applicants have amended Claim 10 to further define “triangular zones,” in the interest of advancing prosecution. Amended Claim 10 now recites “each triangular zone being defined by the portion of the display area between (a) a light beam path extending from a light emitting element at one end of a row of light emitting elements to a single light receiving element and (b) a light path extending from a light emitting element at the other end of the row of light emitting elements to the single light receiving element.”

Sherbeck does not teach these limitations. Even if *Sherbeck* could be interpreted as teaching the recited “triangular zones” (which Applicants do not agree), such “triangular zones” would preclude *Sherbeck* from teaching “the number and positioning of receivers being sufficient to form partially overlapping zone pairs such that the touch event lies within at least two zone pairs,” as shown below.

Figure 1 of *Sherbeck* illustrates a touch panel having a single light emitter D0-D3 at each corner, and arrays of light receivers T_R and T_L on opposite side of the touch panel.



Under the interpretation most favorable to the Examiner, the only “triangular zones” of this configuration which are arguably “defined by the portion of the display area between (a) a light beam path extending from a light emitting element at one end of a row of light emitting elements to a single light receiving element and (b) a light beam path extending from a light emitting element at the other end of the row of light emitting elements to the single light receiving element,” are indicated below in a modified Figure 1 of *Sherbeck* as arbitrary Zones 1-4 (note that the only modification was to show the arbitrary zones).



Even under such interpretation favorable to the Examiner (an interpretation that Applicants do not concede is consistent with the teachings of *Sherbeck*), *Sherbeck* cannot teach the limitations of Claim 10. For example, under such interpretation, each touch event can only lie within a single overlapping zone pair. For instance, touch event “A” shown above lies within an overlapping zone pair of Zones 1 and 4, but not within any other overlapping zone pair. Similarly, touch event “B” lies within an overlapping zone pair of Zones 2 and 4, but not within any other overlapping zone pair. Thus, even under this interpretation, *Sherbeck* would fail to teach “the number and positioning of receivers being sufficient to form partially overlapping zone pairs such that the touch event lies within at least two zone pairs.”

For at least these reasons, *Sherbeck* does not teach these limitations of amended Claim 10. *Casebolt* also does not teach these features of amended Claim 10. Therefore, Applicants respectfully request reconsideration and allowance of amended independent Claim 10, as well as Claims 11-13 that depend from Claim 10.

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CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration and allowance of all pending claims.

Applicants believe no fees are due. However, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 50-4871 of King & Spalding L.L.P. in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.457.2030.

Respectfully submitted,
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